THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No.5426 of 2006

DATED: 15.02.2006

Between:

I.M.S. School, Basanthnagar
Karimnagar, rep. by its Correspondent .. Petitioner

And

State of Andhra Pradesh rep. by its
Secretary to Government, School Education
Department, Secretariat, Saifabad,
Hyderabad and others .. Respondents

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ORDER:

Though W.P.M.Ps are listed, but, as the counter affidavit is filed and in view of the request made by the learned counsel for both the parties, the Writ Petition itself is taken up for disposal.

In this case, the petitioner seeks direction by way of mandamus to declare the Ban imposed by the State Government vide Memo dated 20.10.2004 in filling up of vacant aided posts in the schools, issued by the first respondent, as illegal and arbitrary and contrary to the rules issued in G.O.Ms.No.1 Education dated 01.10.1994.

The petitioner-school was established in the year 1969-70 after obtaining necessary permission from the competent authority. Subsequently, some teaching and non-teaching posts, about 17 in number were admitted into grant-in-aid. Out of admitted grant-in-aid posts, four posts i.e. one Secondary Grade Teacher, one Hindi Pandit Grade-I, one Drawing Master and one Record Assistant fell vacant, as such, the petitioner-school submitted proposals seeking permission to fill up the said vacancies. The competent authority by its proceedings dated 18.10.2003 granted permission to the petitioner to fill up those vacancies. Consequently, by following the procedure as contemplated under rules in G.O.Ms.No.1 dated 01.01.1994, interviews were conducted on 20.08.2004. Subsequently, the proposals were also

sent for approval of selections made on 23.08.2004. However, when no further steps were taken in pursuance of the impugned Government orders issued vide Memo No.12080/COSE/A2 dated 20.10.2004 imposing ban, the petitioner filed this Writ Petition.

In the counter affidavit filed on behalf of the respondents, while admitting that the petitioner-school followed the procedure and the guidelines for filling up the vacant posts as prescribed in G.O.Ms.No.1 dated 01.01.1994, it has stated that in view of the imposition of ban, proposals could not be approved.

In respect of some of the schools, where proposals were sent prior to imposition of ban and where the approvals were not accorded in view of the ban imposed by the Government, a batch of writ petitions came to be filed before this Court. The learned Single Judge has held that the ban imposed vide memo, dated 20.10.2004, will not apply for recruitment against the existing vacancies where permission has already been granted by the competent authorities prior to imposition of ban. As against the same, in the said batch of cases, the Government carried the matter in appeal in Writ Appeal No.1578 of 2005 and batch, and in its judgment dated 29.12.2006, the Division Bench of this Court dismissed the appeal filed by the Government while approving the view taken by the learned Single Judge that ban will not apply to cases were permissions were granted to fill up the existing vacancies prior to imposition of ban. As much as in this case, it is clearly admitted in the counter affidavit filed by the respondents that process was completed prior to imposition of ban by following the rules as contemplated in G.O.Ms.No.1 dated 01.01.1994.

Accordingly, I deem it appropriate to dispose of the Writ Petition

directing the respondents to consider the approval proposals sent by the petitioner-school in filling up the existing vacant aided posts without reference to the ban imposed in the memo dated 20.10.2004, provided the proposals are in accordance with the rules applicable in this regard, within a period of two months from the date of receipt of this order.

Subject to the above directions, the Writ Petition is disposed of. No order as to costs.

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(R.SUBHASH REDDY,J)

15.02.2007
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